

**HOUSE BILL NO. 1312**

Introduced by

Representatives Satrom, Brandenburg, Grueneich

Senator Conley

1 A BILL for an Act to amend and reenact sections 15.1-09-02, 15.1-09-08, 15.1-09-17 and  
2 15.1-09-22, subsection 1 of section 15.1-09-30, sections 16.1-04-01, 16.1-07-04, and  
3 16.1-07-05, subsection 1 of section 16.1-07-08, and sections 16.1-07-09, 16.1-13-05,  
4 16.1-15-29, 40-21-02, 40-49-05, 40-49-07, and 40-49-08 of the North Dakota Century Code,  
5 relating to school board and park district member elections; and to repeal sections 15.1-09-09,  
6 15.1-09-10, 15.1-09-11, 15.1-09-12, 15.1-09-13, 15.1-09-14, 15.1-09-15, 15.1-09-16,  
7 15.1-09-18, 15.1-09-19, 15.1-09-20, 15.1-09-21, 15.1-09-22, and 15.1-09-24 of the North  
8 Dakota Century Code, relating to election procedures in school district elections.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 15.1-09-02 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **15.1-09-02. School boards - Terms of office.**

13 The term of each elected member of a school board is three years, except when the  
14 member is completing the unexpired term of another. The term of office for a school board  
15 member begins at the annual meeting in ~~July~~December following the member's election and  
16 continues until a successor is elected and qualified.

17 **SECTION 2. AMENDMENT.** Section 15.1-09-08 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **15.1-09-08. School district elections - Candidate filings.**

20 An individual seeking election to the board of a school district shall prepare and sign a  
21 document stating the individual's name and the position for which that individual is a candidate.  
22 A candidate shall also file a statement of interests as required by section 16.1-09-02. ~~Whether~~  
23 ~~or not the election is held in conjunction with a statewide election, all~~All statements of interest  
24 must be filed with the school district business manager, or mailed to and in the possession of

1 the business manager, by four p.m. of the sixty-fourth day before the election. A candidate shall  
2 also file a campaign contribution statement as required by section 16.1-08.1-02.3. The business  
3 manager shall forward the name of each candidate and the position for which the individual is a  
4 candidate to the appropriate county auditor for inclusion in the no-party section of the general  
5 election ballot.

6 **SECTION 3. AMENDMENT.** Section 15.1-09-17 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **15.1-09-17. Notification of elected individuals - Notice to county superintendent of**  
9 **schools.**

10 Within three days after the canvass by the ~~school board~~county canvassing board for a  
11 school district election, the business manager of the school district shall provide to each elected  
12 individual written notice of the individual's election and of the duty to take an affirmation or oath  
13 of office. Within ten days after the canvass by the ~~school board~~county canvassing board, the  
14 business manager shall certify the individuals elected and their terms to the county  
15 superintendent of schools.

16 **SECTION 4. AMENDMENT.** Section 15.1-09-22 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **15.1-09-22. School ~~boards~~board elections - ~~Annual elections~~ - Poll books~~When held~~ -**  
19 **Applicable procedures.**

- 20 1. The board of a school district shall hold an election each year ~~between April first and~~  
21 ~~June thirtieth~~on the first Tuesday after the first Monday in November to fill all  
22 vacancies, including those caused by the expiration of terms of office.
- 23 2. ~~Upon resolution of the school board, the~~The annual election ~~may~~must be held in  
24 conjunction with the ~~regular~~general election of a city, ~~as required by state law or by the~~  
25 ~~home rule powers of the city~~county, provided the ~~city~~school district is located wholly or  
26 partially within the ~~school district~~county. The school board may agree with the  
27 governing body of the ~~city~~county to share election costs and responsibilities, including  
28 those associated with election personnel, the printing of election materials, the  
29 publishing of legal notices, and the use of poll books.
- 30 3. ~~If a school board holds its election in conjunction with a city, references in this chapter~~  
31 ~~to the date of a school board election mean the date of the applicable city election.~~

- 1           4. ~~If a school board holds its election in conjunction with a city and only one set of poll-~~  
2           ~~books is used, the set must reference the voter's eligibility to vote in the city election,~~  
3           ~~in the school district election, or both.~~All procedures governing the general election of  
4           a county shall also apply to a school board election unless specifically provided for  
5           under this chapter.

6           **SECTION 5. AMENDMENT.** Subsection 1 of section 15.1-09-30 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8           1. Each school board shall hold an initial meeting during the month of ~~July~~December  
9           following the annual election. The president of the school board shall select a meeting  
10          date that is convenient to the other board members and shall provide board members  
11          with written notice of the meeting.

12          **SECTION 6. AMENDMENT.** Section 16.1-04-01 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14          **16.1-04-01. Precincts - Duties and responsibilities of the board of county**  
15 **commissioners or the governing body of the city.**

- 16          1. The board of county commissioners of each county:
- 17           a. Shall divide the county ~~and the school districts within the county~~ into precincts  
18           and establish the precinct boundaries, except that within the boundaries of ~~any~~an  
19           incorporated city, the governing body of the city shall divide the city into precincts  
20           and establish their boundaries pursuant to title 40. Any number of townships or  
21           parts of townships may be joined into a single precinct provided that ~~no~~a precinct  
22           may not encompass more than one legislative district.
- 23           b. May alter the number and size of precincts ~~within the county~~ by combining or  
24           dividing precincts. However, the governing body of ~~any~~an incorporated city has  
25           the authority to alter the number and size of precincts located within its  
26           boundaries. The board of county commissioners may relinquish the jurisdiction  
27           provided under subdivision a over all or any portion of a township or townships  
28           under its jurisdiction to a city for the purpose of establishing a voting precinct if a  
29           majority of the governing body of the city agrees to assume ~~such~~the jurisdiction.  
30           The governing body of a city, by majority vote, may return jurisdiction granted



1 office, appointed election judges from an election board shall accompany the election  
2 official along with the ballot to and from the voter's location and be present while the  
3 voter is marking the ballot.

4 **SECTION 8. AMENDMENT.** Section 16.1-07-05 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **16.1-07-05. Time for applying for ballot - Emergency situations - Sufficient time for**  
7 **application and ballot return.**

- 8 1. At any time in an election year, ~~any~~ qualified elector may apply to the county auditor,  
9 the auditor or clerk of the city, ~~or the business manager of the school district, as the~~  
10 ~~case may be,~~ by personal delivery, facsimile, electronic mail or otherwise, for an  
11 official ballot to be voted at that election. A voter may obtain an application form  
12 approved by the secretary of state, for an absent voter's ballot for a general, special,  
13 primary, county, city, or school election from the secretary of state, a county or city  
14 auditor, a candidate, a political party, or a political committee. The application form  
15 must provide the applicant the ability to indicate which elections in the calendar year  
16 the applicant wishes to vote by absentee ballot.
- 17 2. No auditor or clerk may issue ballots for absentee voters on the day of the election  
18 except to individuals prevented from voting in person on the day of the election due to  
19 an emergency. An individual requesting an absentee ballot on the day of the election  
20 due to an emergency must do so through an agent as set forth in this chapter. An  
21 agent may represent only one individual. The absentee ballot must be returned to the  
22 county auditor's office by four p.m. on the day of the election.
- 23 3. A completed application must be submitted to the appropriate election official in a  
24 timely manner so as to allow the applicant to receive, complete, and mail the absent  
25 voter's ballot before the day of the election.

26 **SECTION 9. AMENDMENT.** Subsection 1 of section 16.1-07-08 of the North Dakota  
27 Century Code is amended and reenacted as follows:

- 28 1. Upon receipt of an application for an official ballot properly filled out and duly signed,  
29 or as soon after receipt of the application as the official ballot for the precinct in which  
30 the applicant resides has been prepared, the county auditor, ~~or city auditor, or~~  
31 ~~business manager of the school district, as the case may be,~~ shall send to the absent

1 voter by mail or secure electronic delivery, if the secretary of state determines the  
2 necessary technology is available and according to the choice made by the voter on  
3 the application for the ballot, at the expense of the political subdivision conducting the  
4 election, one official ballot, or personally deliver the ballot to the applicant or the  
5 applicant's agent, which agent may not, at that time, be a candidate for any office to  
6 be voted upon by the absent voter. The agent shall sign the agent's name before  
7 receiving the ballot and deposit with the auditor ~~or business manager of the school-~~  
8 ~~district, as the case may be,~~ authorization in writing from the applicant to receive the  
9 ballot or according to requirements set forth for signature by mark. The auditor ~~or~~  
10 ~~business manager of the school district, as the case may be,~~ may not provide an  
11 absent voter's ballot to an individual acting as an agent who cannot provide a signed,  
12 written authorization from an applicant. A person may not receive compensation,  
13 including money, goods, or services, for acting as an agent for an elector, and a  
14 person may not act as an agent for more than four electors in any one election. A voter  
15 voting by absentee ballot may not require the political subdivision providing the ballot  
16 to bear the expense of the return postage for an absentee ballot.

17 **SECTION 10. AMENDMENT.** Section 16.1-07-09 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **16.1-07-09. Canvassing of mailed absent voter's ballot received late.**

20 In congressional, state, county, city, or school district elections, if an envelope postmarked  
21 or otherwise officially marked by the United States postal service or other mail delivery system  
22 before the date of election and containing an absent voter's ballot is received by the officer after  
23 election day, the ballot must be tallied by the canvassing board of the county; or the governing  
24 body of the city; ~~or the school board of the school district, as the case may be,~~ at the time the  
25 returns are canvassed. Any envelope without a postmark or other official marking by the United  
26 States postal service or other mail delivery system or with an illegible postmark or other official  
27 marking and containing an absentee voter's ballot must be received by mail by the proper  
28 officer prior to the meeting of the canvassing board. An absent voter may personally deliver the  
29 absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day  
30 before the election. Any envelope containing an absent voter's ballot with a postmark or official  
31 date stamp on the day of election or thereafter may not be tallied with the ballots timely

1 submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this  
2 section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon  
3 receipt, the canvassing board shall determine that the elector was qualified to vote in that  
4 precinct, that the elector did not previously vote in that precinct on the date of the election, and  
5 that the signatures on the absentee ballot application and the voter's affidavit were signed by  
6 the same individual before allowing the ballot to be tallied.

7 **SECTION 11. AMENDMENT.** Section 16.1-13-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **16.1-13-05. Notice of election - Contents - Publication with sample ballot.**

10 1. Notice of all general elections must be published by the county auditor in the official  
11 county newspaper at the same time as, and as a part of, the publication of the sample  
12 ballot preceding the election. The notice must be substantially as follows:

13 Notice is given that on Tuesday, November \_\_\_\_\_, \_\_\_\_, at the polling places in the various  
14 precincts in the county of \_\_\_\_\_, an election will be held for the election of  
15 state, district, school board, and county officers, which election will be opened at  
16 \_\_\_\_\_ a.m. and will continue open until \_\_\_\_\_ p.m. of that day with the following  
17 exceptions:

18 \_\_\_\_\_

19 \_\_\_\_\_

20 Dated \_\_\_\_\_, \_\_\_\_\_

21 Signed \_\_\_\_\_

22 County Auditor

23 2. The county auditor shall publish a copy of the sample ballot of the general election  
24 once each week for two consecutive weeks before the election in the official county  
25 newspaper. If ~~no~~ newspaper is not published in the county, the publication must be in  
26 a newspaper published in an adjoining county in the state. The form of the sample  
27 ballot as ordered and arranged by the county auditor must conform in all respects to  
28 the form prescribed by the secretary of state for the sample general election ballot.  
29 The county auditor shall publish the sample ballot in all forms appropriate for the  
30 method or methods of voting in the county. Candidates from each legislative or school  
31 district within the boundaries of the county must be listed in a separate box or category

1 within the sample ballot by legislative district number or school district name to enable  
2 the voters in each legislative or school district to ascertain the legislative or school  
3 board candidates in their specific district. Sample ballots used for publication purposes  
4 must be arranged using the rotation of the ballot in the precinct in the county that cast  
5 the highest total vote for governor at the last general election at which the office of  
6 governor was filled. The notice must include a statement in substantially the following  
7 format:

8 The arrangement of candidate names appearing on ballots in your precinct may vary  
9 from the published sample ballots, depending upon the precinct, school district, and  
10 legislative district in which you reside.

11 **SECTION 12. AMENDMENT.** Section 16.1-15-29 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **16.1-15-29. Determining tie vote in county and school board offices.**

14 If the requisite number of county officers or school board members are not elected because  
15 two or more persons have equal and the highest number of votes for one and the same office, a  
16 recount must be ~~done pursuant to~~ conducted under section 16.1-16-01. If a recount results in a  
17 tie vote, the county auditor shall give notice to the persons to appear at the county auditor's  
18 office at a time appointed by the county auditor. The persons ~~then~~ shall publicly decide by a  
19 drawing of names which of them must be declared elected. The county auditor shall prepare  
20 and deliver to the person elected an election certificate as provided in this chapter.

21 **SECTION 13. AMENDMENT.** Section 40-21-02 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **40-21-02. City elections - When held - Notice - Polls - Agreements with counties -**  
24 **Judges and inspectors.**

25 Biennial municipal elections must be held on the second Tuesday in June in each  
26 even-numbered year, except an election to elect members of a board of park commissioners  
27 under chapter 40-49 must be held on the first Tuesday after the first Monday in November of  
28 each even-numbered year in conjunction with general election of the county in which the park  
29 district is situated.

- 30 1. Thirty days before the filing deadline for candidate names to be printed on the ballot,  
31 an official notice of this deadline along with a list of the offices to appear on the ballot

- 1 must be published in the official newspaper of the city as provided by section  
2 40-01-09.
- 3 2. Ten days' notice of the time and place of the election and of the offices to be filled at  
4 the election must be given by the city auditor by publication in the official newspaper of  
5 the city as provided by section 40-01-09.
- 6 3. The governing body of a city shall enter ~~int~~ an agreement with the governing body of  
7 the county or counties in which the city lies concerning the use of a single canvassing  
8 board, the sharing of election personnel, the printing of election materials, the  
9 publishing of legal notices, and the apportioning of election expenses.
- 10 4. For city elections that are not held under an agreement with any county, the governing  
11 body of the city shall appoint one inspector and two judges of election for each polling  
12 place in the city at least ten days before the election is held and the polls must be  
13 opened and closed as provided for the opening and closing of polls at statewide  
14 elections. In voting precincts in which over three hundred votes are cast in any  
15 previous election, the governing body may appoint two election clerks for each polling  
16 place. For a city election that is not held under an agreement with any county in a  
17 precinct in which seventy-five or fewer votes were cast in the last city election, the  
18 governing body of the city may appoint one inspector and one judge for each polling  
19 place.
- 20 5. When a city enters ~~int~~ an agreement with the county to hold the city election in  
21 conjunction with the county election, the deadline for giving notice of the city election  
22 along with the offices to be filled at the election may be adjusted ~~in order~~ to meet the  
23 publishing requirements of the county. Each city governing body that enters ~~int~~ an  
24 agreement with the county must notify the county auditor, in writing, immediately after  
25 the candidate filing deadline on the sixty-fourth day before the election of the offices to  
26 be filled at the election and any measures to appear on the ballot.

27 **SECTION 14. AMENDMENT.** Section 40-49-05 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **40-49-05. Board of park commissioners in city - Terms.**

- 30 1. The powers of a park district in a city must be exercised by a board of park  
31 commissioners consisting of five or three members, as determined by the governing

1 body of the city in creating the park district or pursuant to sections 40-49-07.1 and  
2 40-49-07.2. Except as provided in subsection 2, each commissioner shall hold office  
3 for a term of four years and until a successor is elected and qualified. The term of  
4 office of a commissioner begins on the first day of ~~July~~December.

5 2. Members of a newly created five-member board shall hold office as follows:

6 a. Three members until the first day of ~~July~~December after the next ~~regular biennial~~  
7 ~~city election~~election to elect members of the board of park commissioners under  
8 section 40-21-02.

9 b. Two members until two years from the time mentioned in subdivision a.

10 3. Members of boards of park commissioners which existed before July 1, 1987, shall  
11 hold office on the staggered basis in effect on June 30, 1986.

12 4. Members of a newly created three-member board shall hold office as follows:

13 a. Two members until the first day of ~~July~~December after the next ~~regular biennial~~  
14 ~~city election~~election to elect members of the board of park commissioners under  
15 section 40-21-02.

16 b. One member until the first day of ~~July~~December after the next ~~regular biennial~~  
17 ~~city election~~election to elect members of the board of park commissioners under  
18 section 40-21-02.

19 **SECTION 15. AMENDMENT.** Section 40-49-07 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **40-49-07. Election and qualification of members of board of park commissioners.**

22 ~~The members of the board of park commissioners shall possess the qualifications of~~  
23 ~~electors of the city and must be elected by the qualified electors of the park district. The~~  
24 ~~members of the first board may be elected at any regular city election or at a special election~~  
25 ~~called for that purpose by the governing body of the city. Thereafter, members of the board must~~  
26 ~~be elected at the regular city elections. Such~~The elected members shall qualify by the first day  
27 of ~~July~~December following their election by taking and filing with the city auditor the oath  
28 prescribed for civil officers. ~~The~~ election to elect a board of park commissioners ~~may enter into~~  
29 ~~an agreement~~must be held in conjunction with the governing body of the city ~~concerning sharing~~  
30 ~~of election personnel, printing of election materials, and apportioning of election~~  
31 ~~expenses~~general election of the county in which the park district is situated. An election to elect

1 members of a board of park commissioners is subject to the same election procedures applying  
2 to an election for the election of county officers.

3 **SECTION 16. AMENDMENT.** Section 40-49-08 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **40-49-08. Organization of board of park commissioners - City auditor to act as**  
6 **treasurer of board or board to appoint clerk.**

7 At the first meeting of the board of park commissioners in ~~July~~December after the regular-  
8 biennial city election to elect members of the board of park commissioners, the members shall  
9 organize the board by selecting a president and a vice president. The city auditor shall be ex  
10 officio treasurer of the park district or the board may appoint a clerk and such other employees  
11 as ~~shall be deemed needed~~required for the efficient conduct of the district's business and shall  
12 fix their compensation. The clerk shall take the oath prescribed for civil officers and shall obtain  
13 ~~such~~the bond as ~~may be~~ required by the board.

14 **SECTION 17. REPEAL.** Sections 15.1-09-09, 15.1-09-10, 15.1-09-11, 15.1-09-12,  
15 15.1-09-13, 15.1-09-14, 15.1-09-15, 15.1-09-16, 15.1-09-18, 15.1-09-19, 15.1-09-20,  
16 15.1-09-21, 15.1-09-22, and 15.1-09-24 of the North Dakota Century Code are repealed.